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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,066	01/09/2002	David R. Bissen	S51.12-0042	4976
164	7590	12/12/2005		
KINNEY & LANGE, P.A. THE KINNEY & LANGE BUILDING 312 SOUTH THIRD STREET MINNEAPOLIS, MN 55415-1002			EXAMINER CHAN, KO HUNG	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/043,066

Applicant(s)

BISSSEN, DAVID R.

Examiner

Korie H. Chan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 23-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-25 and 29-37 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 26-28 is/are rejected.
- 7) ☒ Claim(s) 4 and 6-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

Claims 1-3, 5, 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Zemon (US patent no. 5,603,389). Zemon discloses a support apparatus comprising a truss (figure 10) for fixed connection to a vertical surface (12, figure 1), the truss including a top frame (20) defining a first aperture (figure 3), a bottom frame (22) defining a second aperture (figure 3), vertical members (14 and 16) connecting the top and bottom frame, and a top and bottom adjustable mount assembly each with plurality of mast engaging elements (46) positioned at spaced locations on the top and bottom frame and adjustable with respect to the top frame to extend radially inward wherein the engaging elements secure the mast (100); wherein the engaging elements comprising plural top and bottom wedge bracket assemblies (46) and plural pin cradle assemblies (holes 44), a top wall anchorage (48) and bottom wall anchorage (60).

Claim Rejections - 35 USC § 103

Claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziaylek et al (US patent no. 6,220,557) in view of Keppens (US patent no. 1,680,050).

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Ziaylek discloses a support frame (10) for receiving different sizes of cross-sectional diameter cylinders (Col. 4, lines 40-44) comprising a truss (10) for fixed connection to a vertical surface, the truss including a top frame portion (34) and a bottom frame portion (34), a top adjustable support assembly (24, 26) mounted to the top frame portion, the top adjustable assembly being adjustable in size for supportably receiving and holding in place any one of the plurality of cylinder at the top frame portion, a bottom adjustable support assembly (24, 26) mounted to the bottom frame portion, the bottom adjustable assembly being adjustable in size for supportably receiving and holding in place any one of the plurality of cylinder at the bottom frame portion, a top wall anchorage (22) fixably secured to the top frame portion and adapted to be mountable to a vertical surface, and a bottom wall anchorage (28) fixably secured to the top frame portion and adapted to be mountable to a vertical surface. However, Ziaylek does not disclose the top frame portion and bottom frame portion as having opening with adjustable support assemblies extending into the top opening and bottom opening. Keppens teaches providing a support frame for holding various sizes of mast using a truss having a top frame portion (11) and bottom frame portion (2) as having opening with adjustable support assemblies (10) extending into the top opening and bottom opening. It would have been obvious to one of ordinarily skilled in the art to have modify the top and bottom frame of Ziaylek such that it is of the type having openings with adjustable support assemblies extending into the openings as such method of retaining a mast are old and well-known as demonstrated by Keppens. Such modification would have involved a mere substitution of one well-known clamp for another.

Allowable Subject Matter

Claims 23-25 and 29-37 allowed.

Claims 4 and 6-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 571-272-6816. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Korie H. Chan
Primary Examiner
Art Unit 3632

khc
December 7, 2005